

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) JAY D. LABADIE,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 10-cv-587-CVE-FHM
)	
(1) PROTEC FUEL MANAGEMENT, LLC,)	
(2) PROTEC ENERGY PARTNERS, LLC,)	<i>The Honorable Claire V. Eagan</i>
(3) ANTOD CORP.,)	
(4) TODD G. GARNER, and)	
(5) ANDREW GREENBERG,)	
)	
Defendants.)	

**JOINT MOTION FOR AN ORDER DIRECTING THE CLERK TO
ADMINISTRATIVELY CLOSE THE CASE AND FOR THE COURT TO
RETAIN JURISDICTION PENDING FULL PERFORMANCE
UNDER A SETTLEMENT AGREEMENT REACHED BY THE PARTIES**

The parties respectfully request that the Court enter an Order directing the clerk to administratively close the above-styled action and that the Court retain jurisdiction for six months pending full performance of all Defendants’ obligations under the terms of an agreement reached settling the dispute. In support of this request, the parties submit as follows:

1. The parties reached a settlement in this action under terms memorialized in a “Confidential Settlement Agreement.”

2. Pursuant to the Confidential Settlement Agreement, Defendants are to make five monthly payments to Plaintiff.

3. The Confidential Settlement Agreement provides that if Defendants abide by the obligations to which they agreed therein, including their agreement to timely make all payments, the parties will file a stipulation of dismissal with prejudice with regard to all of Plaintiffs remaining claims against Defendants.

4. Defendants have agreed to the entry of a stipulated final judgment should they fail to perform their obligations under the Confidential Settlement Agreement.

5. Accordingly, it is necessary for the Court to retain jurisdiction over this matter for a period of six months in order for Plaintiff to seek to enforce the settlement agreement by entry of the stipulated final judgment should Defendants default on the terms of the Settlement Agreement.

6. Since the Confidential Settlement Agreement provides for a resolution of the case, whether in the form of complete dismissal or entry of a final judgment, the terms of which the parties have already agreed, there is no need for the case to be held open for purposes of discovery or otherwise.

7. The Court has authority, under N.D. LCvR 41.1, to direct the clerk to administratively close the case without entry of a final judgment or order. Additionally, the Court may retain jurisdiction over the action in order to oversee and, if necessary, enforce a settlement of the dispute. *City of Tulsa v. Tyson Foods, Inc.*, No. 01-CV-0900EA(C), 2003 U.S. Dist. LEXIS 23416, at *7 (N.D. Okla. July 16, 2003) (citing *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 381-82).

8. A proposed Order is submitted herewith.

WHEREFORE, the parties request that the Court enter an Order directing the Court Clerk to administratively close the case pending either an order of the Court reopening the action or until this case is dismissed by stipulation of the parties. The parties further request that the Court retain jurisdiction over the case for a period of six months in order to enforce the settlement agreement by entry of a Stipulated Final Judgment in the event of default by Defendants. The parties request such other relief as the Court deems appropriate under the circumstances.

Respectfully submitted,

**NEWTON, O'CONNOR, TURNER & KETCHUM,
A PROFESSIONAL CORPORATION**

By: /s/ Gregory P. Reilly

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*Signed by filing attorney with permission

CERTIFICATE OF SERVICE

- I hereby certify that on February 24, 2011, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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- I hereby certify that on February 24, 2011, I served the foregoing document by mail on the following, who are not registered participants of the ECF System:

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